MT LEGISLATIVE HISTORY

Chapter 269 1974

Bill (H) 1040 S _____ Original bill & hist. ___C

H. Committee on Labor & Employment

Hearing Date(s) Jan 25 ✓C

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_____ ___C

Date Out Jan 25 ___C

S. Committee on Labor & Employment

Hearing Date(s) Feb 20 ✓C

Feb 25 ✓C

Mar 04 ✓C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

January 25, 197[illegible]

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held Friday, January 25, 1974, at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Elliard and Lee, who were excused.

HOUSE BILL # 1040 -- SPONSOR: Rep. Pat McKittrick. He introduced Mr. Norm Grosfield, legal counsel for Workmen's Compensation, who said this was an advisory council bill, which was adopted by them, and it corrects a mistake that was made last session. It expands the definition of beneficiary to include dependent parents, brothers and sisters. The cost would be very minimal since there are about 50 deaths a year, but this bill would only affect about four cases in a year. It is estimated to cost about $12,000, but this would not affect actuary rates at all. Mr. George Wood, executive secretary, Montana Self-Insurance Association, said this bill corrects an unintentional deletion of beneficiaries. Rep. Turman asked whether those people that have been left out before would be able to be reinstated. Mr. Grosfield replied that this bill would not be retroactive. Chairman McKittrick asked whether there would be an objection to adding an effective date to the bill; Mr. Grosfield replied no.

HOUSE BILL #893 -- SPONSOR: Rep. William Menahan. He introduced Mr. Jim McGarvey, Montana Federation of Teachers, who said this bill would repeal the school law enacted in 1971 and would allow the Dept. of Labor to conduct elections. The department is an independent third party and is removed from the school district, and it has expertise as it has conducted elections before. The bill calls for signatures of 30 percent of the employees; this is in conformity with all other public employees and federal government elections. Mr. Tony Softich, Labor Standards Division, and Ernie Post, AFL-CIO, also spoke in favor of the bill. OPPONENTS: Mr. Chadwick Smith, Montana School Board Association, said he views this bill as an introduction to jurisdictional disputes, and they want to be sure, as the employer, that they know who they are bargaining with, and if this agent truly represents a majority of the employees. He said they are also concerned with why this particular bill is being introduced at this time, because the present law, 75-6121, R.C.M. 1947, which is being repealed, has never been tried. They feel there should be a provision whereby the employer can call for an election to give an opportunity for the employer to know with whom he is bargaining. The bill does not provide for notices given as to when an election will be called, nor does it give a limit or period of time once a determination is made. They have no objection to the amendment to have the commissioner of labor administer elections, but want to be sure that the school district and the employer have the right to call for an election. Mr. McGarvey gave a rebuttal. He said the present bill states there must be 50 percent signatures of the employees, whereas this bill only calls for 30 percent, and this may be why the present law has never been tried. The bill provides for those people who want "no representative" to be heard. He also said the teachers should be able to call for an election because they are the ones that need to negotiate. He has no objection to a time limit. Questions followed. Rep. Turner asked how HB #1032 would affect this, and Mr. McGarvey said it would have no bearing on this bill. Chairman McKittrick said the language on page 2, lines 5 through 11, is vague and confusing.

HOUSE BILL #1040 -- Rep. Baeth moved that HOUSE BILL #1040 DO PASS WITH AN AMENDMENT to provide for an effective date and that Section 4 be added to the end of the bill indicating this would be effective upon approval. Rep. Hodges seconded. Motion carried. Motion that HOUSE BILL #1040 AS AMENDED DO PASS carried unanimously.

HOUSE BILL #907 -- Rep. Lombardi moved that HOUSE BILL #907 DO PASS. Rep. Baeth seconded. Rep. Turner said he felt the [illegible] should be [illegible] person. This bill allows the commissioner of labor to go into court to enforce his order; it would be a criminal action against the employer, and the merits in the claim are not in question. Rep. Bennetts questioned whether this bill would give quasi-judicial status in other areas. Motion that HOUSE BILL #907 DO PASS carried with Reps. East and Turner opposed, and Rep. Colberg abstaining.

A request was made that HOUSE BILL #1059 have a fiscal note. House Bills #893 and 1059 will be held for further discussion.

Meeting was adjourned.

Pat McKittrick, Chairman

Bessie Wong, Secretary

WITNESS STATEMENT

Name Steve K. Waldhorn Date 1-25-74

Address 2423 N. Nelson #7, Mesa Support ? X

Representing Local Legislative Comm. Oppose ? _____

Which Bill ? HB 1040 Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Ken LUKAS Date 1/25/14

Address RR 1 Miller Rd Wolf Point Support X

Representing Retail Clerks Local 791 Oppose ?

Which Bill ? HB 107 Amend ?

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name Norm Grosfield Date Jan 24 1974

Address _____ Support? X

Representing Division of Workmen's Comp. Oppose ? _____

Which Bill ? HB 1040 Amend ? _____

Comments:

Please leave prepared statement with the committee secretary.

WITNESS STATEMENT

Name George Wood Date 7/25/74

Address 409 Dana Support ?

Representing Montana Self Insurance Oppose ?

Which Bill ? HB 1048 Amend ?

Comments:

Please leave prepared statement with the committee secretary.

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 20, 1974

The meeting of the Labor and Employment Realtions Committee was called to order by Chairman Siderius on the above date in Room 402 of the State Capitol Building at 8:30 a.m.

ROLL CALL: Eight members of the committee were present with Senators Bennett, Flynn and McNamer absent.

CONSIDERATION OF HOUSE BILL 1040: Mr. Zanto of the Workmen's Compensation Division and Mr. Norm Grosfield of the same division, appeared before the committee in the absence of Representative Pat McKittrick. This is a bill suggested by the Governor's Advisory Council on Workmen's Compensation. This bill in subsection (5) limits a dependent parent and (6) does the same thing for dependent brothers and sisters. Also last year the $3,000 lump sum payment to parents in the case of death was inadvertentdly left out and this bill would reinstate this. There are only about 3 or 4 cases out of 50 deaths per year in which this would apply.

In the case of (5) and (6) equitable distribution of the money would be decided by the division. Dependency is measured on some type of dollar value. There is also a partial dependency.

DISPOSITION OF HOUSE BILL 1040: Senator Moore moved that HB 1040 BE CONCURRED IN seconded by Senator Lowe. Motion carried unanimously. Senator Moore will carry the bill on the floor.

CONSIDERATION OF HOUSE BILL 928: Representative Lynch or McKittrick did not appear for the hearing. However, Senator Bertsche would like to do some research on this bill before the committee acts on it.

CONSIDERATION OF HOUSE BILL 907: Senator Moore will report on HB 907 at the Friday meeting.

CONSIDERATION OF HOUSE BILL 843: Senator Lowe will work out an amendment to this bill for Friday.

There being no further business to come before this committee Senator Keenan moved that the meeting be adjourned, seconded by Senator Shea.

GEORGE SIDERIUS, Chairman

ROLL CALL

LABOR & EMPLOYMENT COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 1/29/74

NAME	PRESENT	ABSENT	EXCUSED
Jensen, Art			
Bertsch, Bill			
Flynn, Elmer			
Keenan, P.J.			
Shea, Jimmy			
Bennett, George			
Himsl, Matt			
Lowe, Bill			
Moore, Jim			
McNamer, William			
Siderius, George			

Each day attach to minutes

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

February 25, 1974

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius on the above date in Room 402 of the State Capitol Building at 8:30 a.m.

ROLL CALL: Nine members of the committee were present with Senators Flynn, and Bennett absent.

CONSIDERATION OF HOUSE BILL 802: Chad Smith, representing the Unemployment Compensation Advisors submitted an amendment.

"Amend the third reading copy of the bill, page 1, in the title line 7 after the word "CLAIMANT" by deleting the words "OR HIS DESIGNATED ATTORNEY" and

Amend the third reading of the bill, page 1, section 1, lines 24 and 25 by reinserting the stricken material "to the effective administration of this act"; and

Amend the third reading of the bill, page 2, section 1, line 2 after the word "except" by inserting the following new material "to the individual claimant";

Amend the third reading of the bill, page 2, section 2, line 5 by deleting the underlined material and

Amend the third reading of the bill, page 2, section 2, line 6 by deleting the underlined word "attorney" and following the word "and" by deleting the words "other than".

Senator Bertsche moved the adoption of the above amendments seconded by Senator Keenan. MOTION CARRIED UNANIMOUSLY.

Senator Moore moved the adoption of the amendment page 1, section 1, lines 24 and 25, seconded by Senator Lowe. MOTION CARRIED UNANIMOUSLY.

Senator Moore moved that HB 802 AS SO AMENDED BE CONCURRED IN. MOTION CARRIED UNANIMOUSLY. (Seconded by Senator Jensen).

CONSIDERATION OF HOUSE BILL 1040: Senator Bertsche moved that the amendment be adopted, seconded by Senator Himsl. (see committee report). Senator Moore suggested holding the bill until action in the House on SB 642. Keenan moved to defer action, seconded by Bertsche. motion carried.

CONSIDERATION OF HOUSE BILL 928: Senator Bertsche moved that HB 928 BE CONCURRED IN, seconded by Senator Keenan. MOTION CARRIED with Senator Lowe voting no.

CONSIDERATION OF HOUSE BILL 907: Senator Moore felt there might be possible duplication with this bill. Tom Keegan will talk to Mr. Softich about this bill.

ROLL CALL

LABOR AND EMPLOYMENT COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 2/25/74

NAME	PRESENT	ABSENT	EXCUSED
Jensen, Art	✓		
Bertsche, Bill	✓		
Flynn, Elmer	✓		
Keenan, P.J.	✓		
Shea, Jimmy	✓		
Bennett, George			
Hirsl, Matt	✓		
Lowe, Bill	✓		
Moore, Jim	✓		
McNamer, William	✓		
Siderius, George	✓		

Each day attach to minutes

ROLL CALL

LABOR AND EMPLOYMENT COMMITTEE

SECOND HALF - 43rd LEGISLATIVE SESSION 1974 Date 3/4/74

NAME	PRESENT	ABSENT	EXCUSED
Jensen, Art			
Bertsche, Bill			
Flynn, Elmer			
Kennan, P.J.			
Shea, Jimmy			
Bennett, George			
Himsl, Matt			
Lowe, Bill			
Moore, Jim			
McNamer, William			
Siderius, George			

Each day attach to minutes

MINUTES OF THE MEETING
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
MONTANA STATE SENATE

March 4, 1974

The meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius on the above date in Room 402 of the State Capitol Building at 8:30 a.m.

ROLL CALL: All members of the committee were present with Senator Bennett absent.

CONSIDERATION OF HOUSE BILL 1099: Representative Lynch, co-sponsor of the bill appeared before the committee in support of this bill. He stated that it is more or less to clean up some of the problems that they are having in workmen's compensation.

Larry Zanto, Administrator of the Workmen's Compensation Division also appeared in support of HB 1099. This bill reduces the offset of total permanent disability from 100% to 50%.

Jim Murray of the AFL-CIO also supported 1099. The injuries under total permanent disability are very low so the cost would not be too great.

Senator Lowe asked how many are under this program as of now. Mr. Zanto stated around 15 to 20 but we only pick up 2 or 3 a year.

Mr. Pete Strizich of the Workmen's Compensation Division explained some of the figures which he had submitted. This would not be retroactive and would only be for future cases. The effective date would have to be July 1, 1974, because the rates have already been figured for a complete year.

Senator Bertsche moved that action on this bill be deferred until Wednesday, seconded by Senator Shea. More figures are needed in order to understand what is going on.

DISPOSITION OF HOUSE BILL 991: Senator Bertsche moved that HB 991 BE CONCURRED IN, seconded by Senator Jensen. MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 1040: Senator Bertsche moved that the amendment on page 4, lines 3 through 8 by deleting the material therein in its entirety, be adopted, seconded by Senator Jensen. MOTION CARRIED UNANIMOUSLY. Senator Jensen moved that HB 1040 BE CONCURRED IN AS AMENDED, seconded by Senator Keenan, MOTION CARRIED UNANIMOUSLY.

DISPOSITION OF HOUSE BILL 782:
Senator Moore had to leave the meeting and left his vote to be the same as Senator Lowe. Senator McNamer had to be excused and left his vote against #782

Mr. Post suggested an amendment on page 1, line 19 after the words "may not" by inserting the word "knowingly". He also stated that the Chamber of Commerce wanted to make an amendment concerning professional pickets, however, they were not at the meeting.

application for amendment of certificate — hearings. (1) Upon receipt of an application complying with section *70-806*, the department shall commence an intensive study and evaluation of the proposed facility and its effects, pursuant to section *70-816* of this act. Within six hundred (600) days following receipt of the application for a facility as defined in sections *70-803(3)(a), 70-803(b)(iv), 70-803(3)(c), 70-803(3)(d)* and within one hundred eighty (180) days for a facility as defined in sections *70-803 (b)(iii)* the department shall make a report to the board, which shall contain the department's studies, evaluations, recommendations, other pertinent documents resulting from its study and evaluation pursuant to section *70-816* of this act and the final environmental impact statement.

The departments of health and environmental sciences, highways, intergovernmental relations, fish and game, and public service regulation shall report to the department information relating to the impact of the proposed site on each department's area of expertise. Such information may include opinions as to the advisability of granting or denying the certificate. The department shall allocate funds obtained from filing fees to the departments making reports to reimburse them for the costs of compiling information and issuing the required report.

(2) On an application for an amendment of a certificate, the board shall hold a hearing in the same manner as a hearing is held on an application for a certificate if the proposed change in the facility would result in any material increase in any environmental impact of the facility or a substantial change in the location of all or a portion of such facility other than as provided in the alternates set forth in the application.

(3) Upon receipt of the department's report submitted under subsection (1) of this section, the board shall set a hearing date not more than sixty (60) days after such receipt."

Section 4. Section 70-820, R.C.M. 1947, is amended to read as follows:

"70-820. **Adoption of rules—monitoring of facilities.** (1) The board and department may adopt rules implementing the provisions of this act.

(2) The board and the department shall have continuing authority and responsibility for monitoring the operations of all certificated facilities, for assuring continuing compliance with this act and certificates issued hereunder, and for discovering and preventing noncompliance with this act and such certificates.

(3) The board shall adopt rules requiring every person who proposes to gather geological data by boring of test holes or other underground exploration, investigation, or experimentation, related to the possible future development of an underground utility facility employing geothermal resources, to comply with the following requirements:

(a) Notify the department of the proposed action;

(b) Submit to the department a description of the area involved;

(c) Submit to the department a statement of the proposed activities to be conducted and the methods to be utilized;

(d) Submit to the department geological data reports at such times as may be required by the rules; and

(e) Submit such other information as the board may require in the rules."

Approved March 21, 1974

CHAPTER NO. 269

AN ACT AMENDING SECTIONS 92-413, 92-704.1, AND 92-708, R.C.M. 1947, RELATING TO THE DEFINITION OF BENEFICIARY, COMPENSATION FOR INJURY CAUSING DEATH, AND MANNER OF PAYMENT OF COMPENSATION, ALL UNDER THE WORKMEN'S COMPENSATION ACT, BY ADDING TO THE BENEFICIARY DEFINITION DEPENDENT PARENTS, BROTHERS AND SISTERS; PROVIDING CERTAIN DEATH BENEFITS TO DEPENDENT PARENTS, BROTHERS AND SISTERS; PROVIDING FOR EQUITABLE DISTRIBUTION TO DEPENDENT PARENTS, BROTHERS AND SISTERS; AND GRANTING A NONDEPENDENT PARENT AWARD OF THREE THOUSAND DOLLARS ($3,000); AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 92-413, R.C.M. 1947, is amended to read as follows:

"92-413. **Beneficiary defined.** "Beneficiary" means*: (1)* a surviving wife or husband;

(2) an unmarried child under the age of eighteen (18) years;

(3) an unmarried child under the age of twenty-two (22) years who is a full-time student in an accredited school;

(4) an invalid child over the age of eighteen (18) years *who is* dependent upon the decedent for support at the time of injury;

(5) a parent who is dependent upon the decedent for support at the time of the injury. However, such a parent is a beneficiary only when no beneficiary, as defined in subsections (1) through (4) of this section, exists; and

(6) a brother or sister under the age of eighteen (18) years if dependent upon the decedent for support at the time of the injury. However, such a brother or sister is a beneficiary only until the age of eighteen (18) years and only when no beneficiary, as defined in subsections (1) through (5) of this section, exists."

Section 2. Section 92-704.1, R.C.M. 1947, is amended to read as follows:

"92-704.1. **Compensation for injury causing death.** *(1) To beneficiaries as defined in section 92-413, subsections (1) through (4), weekly*

compensation benefits for injury causing death shall be sixty-six and two-thirds percent (66 ⅔%) of the decedent's wages. The maximum weekly compensation benefits shall not exceed the state's average weekly wage. The minimum weekly compensation for death shall be fifty percent (50%) of the state's average weekly wage, but in no event shall it exceed the decedent's actual wages at the time of his death.

(2) To beneficiaries as defined in section 92-413, subsections (5) and (6), weekly benefits shall be paid to the extent of the dependency at the time of the injury, subject to a maximum of sixty-six and two-thirds percent (66 ⅔%) of the decedent's wages. The maximum weekly compensation shall not exceed the state's average weekly wage.

(3) If the decedent leaves no beneficiary as defined in section 92-413, a lump sum payment of three thousand dollars ($3,000) shall be paid to the decedent's surviving parent or parents.

(4) Death benefits shall be paid to a widow or widower for life or until remarriage, and in the event of remarriage two (2) years' benefits shall be paid in a lump sum to the widow or widower. In all cases, benefits shall be paid to beneficiaries as defined in *section 92-413.*"

Section 3. Section 92-708, R.C.M. 1947, is amended to read as follows:

"92-708. **Compensation to run consecutively — manner of payment.** Compensation shall run consecutively and not concurrently and payment shall not be made for two (2) classes of disability over the same period. Compensation due to beneficiaries shall be paid to the surviving spouse, if any, or if none, then divided equally among or for the benefit of the children. In cases where beneficiaries are a surviving *spouse* and stepchildren of such *spouse* the compensation shall be divided equally among all beneficiaries. Compensation due to *beneficiaries as defined in section 92-413, subsections (5) and (6)* where there *is* more than one (1), shall be divided equitably among them and the question of dependency and amount thereof shall be a question of fact for determination by the division."

Section 4. This act shall be effective upon its passage and approval.

Approved March 21, 1974

CHAPTER NO. 270

AN ACT TO AMEND SECTION 92-704.1, R.C.M. 1947, RELATING TO BENEFIT REDUCTIONS UNDER THE WORKMEN'S COMPENSATION ACT; AUTHORIZING THE DIVISION TO MAKE CERTAIN PAYMENTS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 92-704.1, R.C.M. 1947, is amended to read as follows:

"92-704.1. **Compensation for injury causing death.** Weekly compensation benefits for injury causing death shall be sixty-six and two-thirds percent (66 ⅔%) of the decedent's wages. The maximum weekly compensation benefits shall not exceed the state's average weekly wage. The minimum weekly compensation for death shall be fifty percent (50%) of the state's average weekly wage, but in no event shall it exceed the decedent's actual wages at the time of his death.

Death benefits shall be paid to a widow or widower for life or until remarriage, and in the event of remarriage two (2) years' benefits shall be paid in a lump sum to the widow or widower. In all cases, benefits shall be paid to beneficiaries as defined in this act."

Section 2. There is a new section to be numbered 92-704.2, R.C.M. 1947, which reads as follows:

92-704.2. **Application of act.** The provisions of this act apply prospectively only. However, the division shall pay to any widow, widower or beneficiary who did or shall become eligible for compensation for injury causing death after June 30, 1973, and before July 1, 1974, such sum or sums necessary to bring the total amount of compensation paid or to be paid as long as such person has, or remains eligible for compensation, to the amount such person would have received without the reduction for benefits granted by the Social Security Act. The division shall pay such sums in a lump sum as to compensation periods past and bi-weekly as to compensation to become due and from a special fund appropriated for this purpose.

Section 3. This act is effective on its passage and approval.

Approved March 22, 1974

CHAPTER NO. 271

AN ACT AMENDING THE FLOODWAY MANAGEMENT AND REGULATION ACT, SECTION 89-3501 ET SEQ., R.C.M. 1947, TO PROVIDE FOR THE DESIGNATION OF FLOODPLAINS AND FLOODWAYS; TO SHORTEN TO SIX MONTHS THE TIME WITHIN WHICH A POLITICAL SUBDIVISION MAY ADOPT LAND-USE REGULATIONS; TO EMPOWER THE BOARD OF NATURAL RESOURCES AND CONSERVATION TO SHORTEN UPON NOTICE THE SIX-MONTH TIME PERIOD WHEN NECESSARY TO COMPLY WITH FEDERAL FLOOD INSURANCE REGULATIONS; AND TO ALLOW LOCAL POLITICAL SUBDIVISIONS TO ADOPT EXCLUSIVE FLOODPLAIN AND FLOODWAY LAND-USE REGULATION AND PERMIT SYSTEMS; AND PROVIDING AN EFFECTIVE DATE.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 89-3502, R.C.M. 1947, is amended to read as follows: